IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 13029 of 2002

Between:

Madamsetty Siva Kumar S/o. Ramulu
R/o. 4th Line , Gowthaminagar , Krishnalanka Vijayawada -13.

..... PETITIONER

AND

The Commissioner of Police
Vijayawada City.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate writ, order or direction preferably a writ in the Nature of Mandamus declaring the action of the respondent in withdrawing two gunmen provided to the petitioner w.e.f. 8:30 p.m onwards on 16-7-2002 as illegal , arbitrary , unreasonable and in flagrant violation of Article 21 of the Constitution of India.

Counsel for the Petitioner:MR.D.HANUMANTHA RAO

Counsel for the Respondent: GP FOR HOME

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.13029 OF 2002

ORDER:

The petitioner is self-styled Congress leader of Vijayawada. It is his case that as there was great threat perception to his life at the time of post Babri Masjid demolition, the Commissioner of Police, Vijayawada, provided two gunmen, but after sometime they were withdrawn. The petitioner made a representation on 16.7.2002 requesting the respondent to continue the gunmen, in vain. Therefore, he seeks a direction in this Writ Petition to continue the gunmen.

In **G. Subas Reddy v. State of A.P.,** a Division Bench of this Court held that the State is bound to protect the life of the person when there was a threat from a rival group. This Court also issued guidelines. Following those guidelines, the Government of Andhra Pradesh in Home Department issued G.O.Ms.No.655 dated 13.3.1997. These guidelines deal with the persons who were entitled to police protection and the competent authority who can provide such police protection subject to review once in three weeks regarding threat perception to life. As held by this Court in **G.Subas Reddy**'s case (supra), whether there is a threat perception to life of a citizen and whether police security has to be provided to such a person is a matter, which is left to the discretion of the Head of the District Police. As per the guidelines issued in G.O.Ms.No.655, dated 13.3.1997, a person who alleges that there is a threat perception to life has to initially approach the Superintendent of Police seeking protection. Such application has to be considered by the Superintendent of Police and straightaway such person for the first time cannot approach under Article 226 of the Constitution of India. The question cannot be decided in proceedings under Article 226 of Constitution of India.

Though initially the petitioner was provided with two gunmen, after reviewing the threat perception to the life of the petitioner, the gunmen were withdrawn from 16.7.2002. If there is any threat perception to his life still, it shall be open to the petitioner to approach respondent by making an application afresh. As and when such application is made, the respondent shall cause enquiry as to threat perception to the life of the petitioner and pass appropriate orders. If any adverse order is passed, it shall be open to petitioner to file appeal before the Inspector General of Police as per G.O.Ms.No.655, dt.13.7.1995.

The Writ Petition is accordingly disposed of. No costs.

_____

(V.V.S.RAO, J)

7.7.2005

bnr

To

1. The Commissioner of Police
   Vijayawada City.

2. 2 CCs to G.P. for Home, High Court Bldgs., Hyderabad (OUT)

3. 2 CD copies.